

Water Division

TRIBAL TRAINING

EPA / TRIBAL WATER QUALITY DATA ASSESSMENT TOOL PILOT PROJECT

EPA Region 6, in partnership with EPA Headquarters and 20 tribes nationally (11 Region 6) are piloting the development of the Water Quality Assessment Tool (ATTAINS). The ATTAINS tool will allow tribes to report national data on the status of water quality on tribal lands. The ATTAINS Pilot workgroup has been communicating monthly, focusing on the reporting needs that tribes will have when using ATTAINS. The workgroup will have a training in September 2017 to demonstrate the use of the new assessment tool for tribal staff. The training will provide information on water quality standards, QAPP development, and assessment methodologies.

Laura Hunt, 214-665-9729; Lindsey Griffin, 214-665-2797; Mike Schaub, 214-665-7314; Laura Shumway 202-566-2514, TeAndra Taylor 214-665-8346

WATER QUALITY MONITORING PROGRAM TRAINING

EPA Region 6 staff will be hosting a 2-day training in September in Oklahoma to train beginner to intermediate level tribal staff in the topics related to water quality monitoring programs. Topics that will be covered include Monitoring Design and Strategy, Quality Assurance Project Plans, Multi-parameter Sonde Pre and Post Calibration, Sonde Maintenance and Troubleshooting, Stream Sampling demonstrations, Assessment Methodologies, Tribal Assessment Reports, and Data Analysis Tools and Uploading Data. The training will likely include presentations as well as demonstrations from Oklahoma state staff on more advanced methods of biological sampling and habitat assessment. ***Laura Hunt, 214-665-9729; Lindsey Griffin, 214-665-2797; Mike Schaub, 214-665-7314; Robert Cook, 214-665-7141***

NPDES PERMITS

STATUS OF NPDES PERMITS

During fiscal year 2017, EPA Region 6 will or may be working on several NPDES permits in New Mexico and Louisiana located on or in proximity upstream to potentially affected Tribes: New Mexico: Roca Honda Resources Uranium Mine; Chama WWTP, Espanola WWTP; Albuquerque-Bernalillo Co. WUA WWTP, Grants WWTP, and Taos WWTP; Louisiana: Chitimacha WWTP and Choctaw Pines Casino WWTP. General Permits already proposed or in the works include: Hydrostatic Test Temporary Discharge General Permit (OK & TX) and a general permit for Municipal Separate Storm Sewer Systems (MS4) in New Mexico (primarily for those in the Santa Fe, Las Cruces, El Paso, Los Lunas, and Farmington areas). Affected tribes will receive copies of the draft permits at the time of proposal for review during the public comment period or CWA Section 401 certification as appropriate. Tribal consultation will be available to the affected tribes. ***Brent Larsen, 214-665-7523***

LOS ALAMOS COUNTY MUNICIPAL SEPARATE STORM SEWER (MS4) DESIGNATION PETITION

EPA proposed to designate portions of Los Alamos County as a municipal separate storm sewer system (MS4), which establishes requirements to reduce pollution carried by storm water run-off and will help restore waters in the area that are too polluted. The proposed designation is in response to a petition filed by Amigos Bravos for a determination that storm water discharges in

Los Alamos County are contributing to violations of water quality standards in certain impaired waters and therefore, require a discharge permit and designation as an MS4. After review of the petition, information provided by LANL and Los Alamos County, and the state's water quality assessment, EPA made a preliminary determination that stormwater discharges on Los Alamos National Lab (LANL) property and urban portions of Los Alamos County result in exceedances of state water quality standards. The proposal was published in the Federal Register on March 17, 2015. A final decision is expected fall 2018, concurrent with development of a permit(s) with input from stakeholders *Nasim Jahan 214-665-7522*

LOS ALAMOS NATIONAL LABORATORY (LANL) NPDES PERMIT

EPA Region 6 proposed reissuance of the NPDES permit for stormwater discharges from Los Alamos National Laboratory in Los Alamos, New Mexico in March 2015 and the extended public comment period ended June 25, 2015. The individual storm water permit regulates storm water runoff from about 400 Solid Waste Management Units (SWMUs) and Areas of Concern. LANL has installed over 1000 BMPs to eliminate or mitigate runoff from those sites. The current permit has been administratively continued. EPA has been working with stakeholders including permittees, environmental/citizens groups and New Mexico Environment Department over the last year in the development of permit conditions. EPA held a public meeting prior on the proposal in Los Alamos on May 6, 2015. Final action on the permit is expected fall 2017. *Isaac Chen 214-665-7364*

UNDERGROUND INJECTION CONTROL INDUCED SEISMICITY

Over the last several years, there have been abrupt increases in earthquakes in some oil and gas production areas. These areas include Arkansas, Kansas, Oklahoma, and Texas, as well as other oil and gas producing states. Of particular note is a dramatic increase in both the numbers of earthquakes in Oklahoma and Kansas, along with their magnitudes. EPA finalized the Underground Injection Control (UIC) National Technical Workgroup (NTW) report, *Minimizing and Managing Potential Impacts of Injection-Induced Seismicity from Class II Disposal Wells: Practical Approaches*. This report was developed cooperatively with state members of the workgroup to protect underground sources of drinking water and was released as final in February 2015. Since release of the report, EPA Region 6 has been providing focused technical support to the Oklahoma Corporation Commission (OCC) in its efforts to address potential induced seismicity. In an effort to stem the increasing earthquake trends, OCC has periodically increased its level of response, culminating in a broad injection volume restriction area for disposal wells after several damaging Magnitude 4 events early this year. The Region ramped up its level of concern over the level of seismicity in Oklahoma and North Texas through its 2015 annual evaluations of the UIC programs for OCC and the Railroad Commission of Texas. Both of these reports generated substantial media coverage because of seismicity concerns. The Region also responded quickly over the Labor Day weekend to shut in Osage disposal wells near the 5.8 Magnitude event near Pawnee, Oklahoma. Since September 2016, the frequency of events has continued to sharply decline and no magnitude 4+ events have occurred since November. The Region is cautiously optimistic about this trend, and recent OCC actions. *Philip Dellinger, 214-665-8324*

DRINKING WATER

REVISED TOTAL COLIFORM RULE AND LEAD AND COPPER RULE

Since April 1, 2016, the Revised Total Coliform Rule (RTCR) became effective for all public water systems. The RTCR replaces the old Total Coliform Rule (TCR) where some of the requirements remain the same (such as frequency and number of routine sampling) and some are new (such as level 1 and 2 assessments). Region 6 and its Technical Assistance Providers continues to deliver RTCR and other regulatory training (such as the Lead and Copper Rule) to tribes and provided technical assistance to help tribes for new rules and refresh tribes on older rules. All tribal water systems under Region 6 completed their RTCR Sampling Plans and all tribal water systems are monitoring under RTCR accordingly. Regarding the Lead and Copper Rule, Region 6 shared the February 2016 Sampling Method Clarification Protocol with tribes and encouraged the tribes to take additional (special) samples when their routine lead sample results approach half (7.5 ppb) of the action level (15 ppb). The purpose of this is to encourage tribes to be proactive in preventing an action level exceedance. Region 6 appreciates the collaboration and cooperation of tribes on the implementation of these two rules, which have been at the forefront of Drinking Water discussions in 2016 and in the coming year. *Meaghan Bresnahan, 214-665-8354, Andrea Abshire, 214-665-6076, Jatin Mistry, 214-665-7483, John Baker, 214-665-7542*

SANITARY SURVEYS AND OVERSIGHT

On the Sanitary Survey front, Region 6 and its technical assistance providers continue to conduct surveys every three years under the Groundwater Rule (GWR) and Surface Water Treatment Rules (SWTRs). In 2016, Region 6 developed a more efficient method and database for tracking, organizing, and updating significant deficiencies; this facilitated our ability to reach out to tribes and provide reminders and technical assistance (on the phone or on site) on correcting significant deficiencies at the water systems. Region 6 appreciates the photos and documentation that have been submitted to date to clear the deficiencies. This effort is helping prevent potential 'failure to correct deficiencies' violations. In addition, Region 6 has been conducting compliance reviews on tribal drinking water projects submitted by the Tribe and/or IHS. These reviews allow EPA and the Tribe and IHS to proactively collaborate to prevent compliance issues before project construction begins. EPA encourages Tribes to notify EPA when there are water system modifications or new construction and to continue submitting drinking water infrastructure design projects for EPA compliance reviews. All of these activities, including the trainings that Region 6 provided, are part of Region 6's increased oversight of states and tribal drinking water systems to ensure compliance under the Safe Drinking Water Act. *Miguel Moreno, 915-533-7273, Meaghan Bresnahan, 214-665-8354, Jose Lugo-Figueroa, 214-665-6462, Jose Rodriguez, 214-665-8087, Jatin Mistry, 214-665-7483, Andy Waite, 214-665-7332, John Baker, 214-665-7542*

REVIEW OF WATER INFRASTRUCTURE PLANS

If a tribe is considering having new infrastructure built or added to current infrastructure, such as a well or a treatment system, EPA strongly encourages the tribe and/or IHS to send their engineering design plans to EPA Region 6 for compliance reviews. We review these plans to make sure the new infrastructure will be in line with the regulations and so that the system does not receive significant deficiencies during subsequent sanitary surveys. The point of contact for plan reviews is Jose Lugo-Figueroa, who can be reached at lugo-figueroa.jose@epa.gov or 214-

665-6476; please send Jose design plans in advance of building new infrastructure and we will work with the tribe to help make sure their new infrastructure produces SDWA-compliant water. *Jose Lugo-Figueroa, 214-665-6462, Jose Rodriguez, 214-665-8087, Meaghan Bresnahan, 214-665-8354*

TRIBAL FUNDING

STATE REVOLVING FUNDS TRIBAL SET-ASIDES The Clean Water Indian Set Aside (CWISA) and the Drinking Water Tribal Set Aside (DWTSA) have received the FY 2017 allocation and are in the process of ranking eligible projects. For CWISA, IHS-ALB received \$1,550,000 and R6 will work with R8; IHS-OKL received \$891,000 and R6 will work with R7; IHS-NAS received \$763,000 and R1,2,4 & 6 will work together. For DWTSA, R6 received \$1,889,000 and will work with three IHS offices: ALB, OKL, and NAS. Funding for FY 2017 was based on the minimum (or floor) allocation that was negotiated to minimize the impact of SRFs' decreasing allocations. FY 17 is the second year that the set aside percentage fell below \$30 million mark for CWSRF and \$20 million mark for DWSRF. FY 17 is the first year CWISA will take \$2 million from the allocation and set it aside at the headquarters level for technical assistance. Final awards to the potential Tribal recipients of the SDS projects selected are still on target to be funded by September 2017. *Amber Howard, 214-665-3172, Dena Hurst, 214-665-7283, Sal Gandara, 214-665-3194, Anisa Pjetrovic, 214-665-6446*

WETLAND PROGRAM DEVELOPMENT GRANTS

The 104(b)(3) Wetland Program Development Grants are competitive grants that are part of the EPA Enhancing State and Tribal Programs effort. Funds from these grants can be used to develop and implement a Wetlands Program Plan (WPP). The Core Elements Framework (CEF) outlines the 4 core elements a WPP may include, which are: Monitoring and Assessment, Regulatory Activities including 401 Certification, Voluntary Restoration and Protection, and Water Quality Standards for Wetlands. However, the development of a WPP allows tribes to implement the CEF based on their individual program goals and available resources. The Region 6 Wetlands Program will be soliciting new grant proposals in FY2017. Our grants are solicited on a two-year cycle. For more information, please see

<https://www.epa.gov/wetlands/wetland-program-development-grants> and <https://www.epa.gov/wetlands/what-enhancing-state-and-tribal-programs-effort>

Ten percent of total national WPDG funds will be set aside for a national, tribal-only competition. (About \$1.3 million per year). Tribes may apply to both RFPs with the same (or different) proposals. This year, the RFP will go out approximately 1-2 months after the general, State/Tribe regional RFP. We anticipate the RFPs to be very similar in regards to requirements and selection criteria. Proposals are due April 14, 2017. For the link to the Wetlands Program Grants Solicitation please click the (www.grants.gov/web/grants/view-opportunity.html?oppId=291862)

WETLANDS PROGRAM DEVELOPMENT GRANTS – Update

The Region 6 FY2017-2018 Request for Proposals (RFP) closed on April 14, 2017. One Region 6 tribe submitted a proposal for funding consideration. The proposals are currently under review, and it is anticipated that final recipients will be notified by the end of July.

The National FY2017- 2018 Tribal RFP closed on June 5, 2017. Nine proposals from Region 6 tribes were received. The review panel comprised of Headquarters and Regional staff began reviewing and ranking the proposals during the week of July 3, 2017. Final recipients will be notified as soon as the review is complete.

Alison Fontenot, 214-665-7482; Wanda Boyd, 214-665-6696; Sondra McDonald, 214-665-7187

TREATMENT-AS-A-STATE FOR CLEAN WATER ACT GRANTS

ABSENTEE SHAWNEE TAS FOR CLEAN WATER ACT 319(H)

Absentee Shawnee Tribe submitted an application May 2016 for CWA 319(h) Treatment-As-A-State (TAS) non-point source program. The management plan and assessment report was approved on November 2, 2016. The goal is to have Absentee Shawnee's 319(h) TAS application approved by the end of FY 2017. *Samuel Reynolds, 214-665-6682*

TONKAWA TRIBE TAS CLEAN WATER ACT SECTION 319(H)

Tonkawa Tribe submitted a Treatment-As-A-State (TAS) application for the CWA Section 319(h) nonpoint source program in June 2016. The management plan and assessment report was approved on November 2, 2016. The goal is to have Tonkawa's 319(h) TAS application approved by the end of FY 2017. *Samuel Reynolds, 214-665-6682*

PUEBLO OF LAGUNA TAS FOR CLEAN WATER ACT 319(H)

The Pueblo of Laguna submitted a Treatment-As-A-State (TAS) application for CWA Section 319(h) nonpoint source program in June 2016. We are awaiting the tribe's response to comments on their management and assessment report. *Samuel Reynolds, 214-665-6682*

THLOPHTHOCCO TRIBAL TOWN

The Thlopthlocco Tribal Town submitted a Treatment -As-A-State TAS application for CWA 106 on January 27, 2017. The EPA is awaiting a legal document describing the development of their environmental program. The goal is to have Thlopthlocco Tribal Town's CWA 106 application approved by the end of FY 2017. *Samuel Reynolds, 214-665-6682*

PUEBLO OF ZIA

The Pueblo of Zia submitted a Treatment -As-A-State TAS application for CWA 106 January 23, 2017. The application was approved on June 16, 2017. *Samuel Reynolds, 214-665-6682*

TREATMENT AS A STATE FOR REGULATORY PROGRAMS

TREATMENT IN THE SAME MANNER AS A STATE (TAS) DETERMINATIONS FOR CLEAN WATER ACT §303(C) AND §401

Region 6 is reviewing an application for treatment in the same manner as a state (TAS) for the Clean Water Act (CWA) water quality standards (§303(c)) and water quality certification (§401) programs from the Citizen Potawatomi Nation (submitted in fall 2014). Approval of a TAS application means that the Indian tribe is eligible to administer the water quality standards program under CWA §303(c), and is likewise eligible for purposes of certification under CWA §401. EPA conducted a public comment and Tribal consultation period on the Citizen Potawatomi Nation's application, which concluded at the end of February 2017. Region 6 received responses from the state of Oklahoma, the Sac and Fox Nation and several federal

agencies. These responses were provided to the Citizen Potawatomi Nation for review. Region 6 is preparing a decision document, following the review process outlined in Attachment A of EPA's 2008 "TAS Strategy." *Diane Evans, 214-665-6677; Tina Alvarado, 214-665-2709*

FINAL RULE FOR THE TREATMENT IN A SIMILAR MANNER AS A STATE FOR CLEAN WATER ACT 303(D) LISTING AND TMDL PROGRAMS

On September 26, 2016, EPA published a final rule to establish a regulatory process for eligible tribes to apply to the EPA for authority to obtain TAS for the CWA Section 303(d) Impaired Water Listing and TMDL Program. The rule, "Treatment of Indian Tribes in a Similar Manner as States for Purposes of Section 303(d) of the Clean Water Act," enables eligible tribes to obtain authority to identify impaired waters on their reservations and to establish TMDLs, which serve as plans for attaining and maintaining applicable water quality standards. The final rule and supporting documents are available at <http://www.regulations.gov> using Docket ID No. EPA-HQ-OW-2014-0622. EPA is hosting two webinars for tribes on the CWA 303(d) TAS

rule. The first was held on November 21, 2016, however, a second will be held on December 13, 2016 1:00 pm – 3:00 pm Eastern Time (Registration

link: <https://attendee.gotowebinar.com/register/1358329346038076673>)

Tina Alvarado, ORC, 214-665-2709

LEAN PROJECT TO INCREASE EFFICIENCY AND SHORTEN TIMELINE FOR

TAS: Staff from the Water Quality Division, the Multimedia Division the Office of Regional Council, and the Office of Environmental Justice, Tribal and International Affairs are collaborating on an EPA LEAN project. William Rhea and Tom Ruiz are facilitating the project. LEAN is a set of principles and methods for identifying and eliminating non-value added activity (or waste) in any process. The goal of this project is to examine and improve the efficiency of EPA's review of applications for treatment in a similar manner as a state (TAS) for regulatory programs under the Clean Water Act. **Diane Evans, 665-6677; Sam Reynolds, 665-6682; Lindsey Griffin, 665-2797; Aunjane Gautreaux, 665-7127; Tina Alvarado, 665-2709; Randy Gee, 665-8355; Alexandra Olson, 665-8506; William Rhea, 665-6767; and, Tom Ruiz, 665-3153.**

CWA REGULATIONS

BASELINE WATER QUALITY STANDARDS

In June 2016, EPA initiated pre-rulemaking consultation and coordination with Indian tribes to explore an action that would establish federally-promulgated baseline water quality standards (WQS) for waters on Indian reservations that do not have EPA-approved WQS effective under the Clean Water Act. EPA published an Advance Notice of Proposed Rulemaking (ANPRM) on September 29, 2016, to receive specific and clear guidance from tribal governments and other interested parties on a proposed future federal promulgation for tribal water quality standards. (Note: EPA's current thinking is that off-reservation allotment lands for individual members would not be covered, due to difficulties in identifying these parcels with certainty in the near term.) The 90-day comment period on the ANPRM closed on December 28, 2016. EPA received comments from 35 entities, including Indian tribes, states, individuals and other organizations. EPA is reviewing these comments, along with input received from the earlier Tribal consultation periods, and will brief the new administration for further direction. Information is available at: <https://www.epa.gov/wqs-tech/advance-notice-proposed-rulemaking-federal-baseline-water->

[quality-standards-indian](https://www.regulations.gov/docket?D=EPA-HQ-OW-2016-0405) or through the regulatory docket (<https://www.regulations.gov/docket?D=EPA-HQ-OW-2016-0405>). *Diane Evans, 214-665-6677; Tina Alvarado 214-665-2709*

2017 CWA 404 NATIONWIDE PERMIT REISSUE PROCESS

EPA is the agency required to address water quality certification for tribes that have not received treatment in the same manner as a state for the water quality standards and CWA 401 certification program. For the Corps of Engineers' 2017 Nationwide Permits (NWP), Region 6 only issued "blanket" certification for the 52 NWPs when a tribe specifically requested that we do so. Multiple tribes did make that request. For the remainder of tribes, when a project requires a Clean Water Act, Section 404 NWP from the Corps of Engineers, application must also be made to EPA for the 401 certification of that project before construction can begin. EPA will contact the tribe involved to make sure they are aware of the project and have had adequate opportunity to express their concerns about potential water quality impacts from the project. Once that has occurred EPA will proceed with 401 certification.

At any time a tribe wishes to bypass this extra review step, Region 6 is still willing to issue the "blanket" certification for all 52 of the NWPs from the request date through March, 2022, when the five-year NWP expiration date is reached.

Thomas Nystrom, 214-665-8331

WATERS OF THE UNITED STATES

On February 28, 2017, President Trump issued an Executive Order on "Restoring the Rule of Law, Federalism, and Economic Growth by reviewing the 'Waters of the United States' Rule", directing the Administrator of the EPA and the Assistant Secretary of the Army for Civil Works to review the final Clean Water Rule published in 2015, and publish for notice and comment a proposed rule rescinding or revising the rule. To meet the objectives of the E.O. in a clear and expeditious approach, the agencies have decided on a two-step approach:

- 1) an initial rulemaking to rescind the 2015 rule and reinstate the regulatory approach that has been in place for decades, and thus maintains the status quo; and
- 2) a rulemaking to revise the definition of waters of the U.S. consistent with direction in the E.O.

The agencies have taken several actions consistent with the E.O. and our two-step approach:

Step 1: On May 1, EPA and the Army Corps sent the Step 1 draft proposal package for OMB interagency review. Upon completion of that review, which we anticipate very shortly, the agencies will publish the proposed rule for 30 days of public notice-and-comment.

Step 2: Per EPA policy, we initiated consultation with tribal governments on April 20 regarding the new definition to be developed under Step 2. EPA and the Army Corps are still developing our general outreach strategy, but anticipate we will meet with groups of interested stakeholders upon request to the extent available resources allow. Until a new regulation is in place, the agencies will continue to implement the longstanding regulatory definition, consistent with the

2003 and 2008 agency guidance interpreting that definition in light of the *SWANCC* and *Rapanos* decisions, pursuant to the Sixth Circuit stay of the Clean Water Rule.

More information about the Waters of the U.S. Rulemaking, including the Executive Order and Notice of Intention (currently pre-publication version) can be found at:

www.epa.gov/cleanwaterrule.

Alison Fontenot, 214-665-7482

EPA NATIONAL LAKES ASSESSMENT SURVEY

The 2017 EPA National Lakes Assessment (NLA) will take place this summer. The NLA is a statistical survey of the condition of the nation's lakes, ponds and reservoirs. Sites are randomly selected. The study is designed to answer such questions as: what is the extent of lakes supporting a healthy biological condition?; what proportion of lakes support recreation?; what are the primary stressors to lake resources and how widespread are these stressors?; and, as a nation, is the quality of our lakes getting better, worse, or staying the same? For more information on all of EPA's national aquatic resource surveys, including results of past NLA surveys and others such as the National Rivers and Streams Assessment, please visit:

<https://www.epa.gov/national-aquatic-resource-surveys>, or contact me directly. ***Robert Cook, 214-665-7141.***

Multimedia Division

Air Programs Branch

Tribal Consultation and Coordination:

Treatment as a State (TAS) for the Clean Air Act (CAA): On September 30, 2014, the Quapaw Tribe of Oklahoma submitted an application for TAS for CAA authority under Section 105, Section 505(a)(2), and any additional provisions of the CAA for which no separate Tribal program is required. On February 19, 2015, the Quapaw Tribe amended their application requesting CAA authority under Section 105, Section 505(a)(2), Section 107(d)(3), and CAA §126(a). Region 6 has conducted its review and deemed the application complete. On February 15, EPA proposed approval of the Quapaw Tribe's application for TAS and requested public comments. On March 17, EPA closed the comment period and no comments were received. EPA is currently preparing the final Decision Document for the proposed TAS.

Currently, four Tribes in Region 6 have approved TAS for CAA authorities: The Cherokee Nation, the Pueblo of Laguna, Kaw Nation, and the Peoria Tribe of Oklahoma. *Frances Verhalen, 214-665-2172.*

Tribal Permitting:

On June 5, EPA issued a 90-day stay of the fugitive emissions, pneumatic pumps, and professional engineer certification requirements from the 2016 New Source Performance Standards for the oil and natural gas industry. Additional information on the stay and reconsideration available at <https://www.epa.gov/controlling-air-pollution-oil-and-natural-gas-industry>.

Region 6 Tribal Permits:

All EPA proposed permits will be noticed via e-notice on the Region 6 webpage at <https://www.epa.gov/caa-permitting/caa-permitting-epas-south-central-region>.

- Williams Four Corners, E & H Receiving's initial Part 71 operating permit was public noticed on May 5. No public comments were received by the close of the public comment period on June 5. EPA issued the final permit on June 21.
- XTO's Jicarilla Compressor Station, a synthetic minor new source review permit, was public noticed on May 26. The public comment period is scheduled to close on June 26. EPA expects to issue the final permit in July.

EPA is also in the process of evaluating a synthetic minor NSR permit application submitted by Enterprise Field Services and the renewal of the Part 71 permit for Los Mestenos Compressor Station, both located on Jicarilla Apache.

We continue to provide early notification to the adjacent tribal nations in case they wish to consult on a permitting action in accordance with the Region 6 Consultation and Coordination Policy with Federally Recognized Indian Tribes.

Tribal Funding:

FY2017 Tribal Air Funding: Region 6 received \$1,135,072 in federal funds to support assistance agreements under statutory provisions of the Clean Air Act Section 103 and Section 105. In December 2016, the Office of Environmental Justice and Tribal Affairs (OEJTA) sent a collective email to Tribal Leaders, including a solicitation for proposals for air projects and program activities to be conducted in FY2018. Proposals were due February 28; Region 6 received 18 proposals for a total of \$1,896,626 in funding requests. All proposals were reviewed by a panel of technical and administrative Air Program staff, and recommendations of approval, partial approval, and non-approval were made. Applicants were notified via email of their specific recommendation on May 1. Of the 18, 11 proposals were chosen for funding approval. All awards will be finalized by September 30. *Aunjaneè Gautreaux, 214-665-7127.*

Diesel Emissions Reduction Act (DERA) FY2017 Tribal Funding: Status of tribal funding has not been determined. *William Rhea, 214-665-6767.*

Current and Upcoming Regulations:

Designations under the 2015 Ozone Standard: On June 6, EPA announced that it would extend the designations date by one year to allow the agency to fully consider recommendations regarding designations and to complete its review of the ozone standard. For additional information on the designation's process, please visit our website at <https://www.epa.gov/ozone-designations>. *Carrie Paige, 214-665-6521.*

Designations for Sulfur Dioxide: Region 6 is developing designations for the 2010 sulfur dioxide (SO₂) National Ambient Air Quality Standard (NAAQS) in four parts: Round 1) Existing monitoring data; Round 2) Consent Decree (CD) listed sources; Round 3) Data Requirement's Rule (DRR) air modeling; and Round 4) air monitoring for all remaining sources.

In Round 2, one of the areas that EPA proposed and did not finalize to designate nonattainment under Round 2 was the area in the vicinity of the OG&E Muskogee plant. We are considering whether the company's planned switch to natural gas for two of the units can remove the need to finalize a nonattainment designation.

Round 3 designations will be based on modeling to characterize air quality. EPA must complete its designations by December 31. Region 6 is characterizing Round 3 sources and delineating the designation areas for each source on or nearby tribal land as follows:

- Four Corners Steam Electric Station, Navajo Nation, San Juan County, New Mexico (Region 9 lead);
- San Juan Generating Station, San Juan County, New Mexico;
- Continental Carbon- Ponca City Plant, Kay County, Oklahoma;
- Orion Engineered Carbons- Ivanhoe Carbon Black Plant, Columbia Chemicals-

- North Bend Plant, and Cabot Corp- Canal Plant, St. Mary Parish, Louisiana; and
- CLECO Power- Brame Energy Center, Rapides Parish, Louisiana.

The EPA plans to announce its proposed Round 3 area designations mid-August, followed by a 30-day public comment period. *James E. Grady (214) 665-6745, Dayana Medina (214) 665-7241.*

Pesticides, Toxics, Underground Tanks Branch

New and Upcoming Regulations:

Certification and Training Rule for Applicators of RUPs: EPA delayed the effective date of the rule until May 22, 2018. The final standards cover applicators who apply restricted-use pesticides that are not available for purchase by the general public, and require special handling. The standards require that all people who are certified to apply restricted use pesticides be at least 18 years of age and that these certifications be renewed every five years. The final rule includes flexibility for states and tribes that operate certification programs to continue portions of their existing programs that are equivalent to the revised rule. **Greg Weiler, 214-665-7564**

New UST Regulations: The new EPA UST regulations provide additional protections for UST facilities on Indian land. Deadlines for requirements taking effect were October 13, 2015, April 11, 2016, and finally October 13, 2018. Under the new construction requirements, facilities will provide early notification, resulting in better protection from petroleum leaks into the environment. The new regulations require training for three classes of operators at all UST facilities: Class A, B and C. The training must be completed prior to October 13, 2018. Several new UST facilities have been constructed on tribal lands, which had to meet the new secondary containment requirements, and one emergency generator UST was recently constructed in Oklahoma. OUST has prepared compliance assistance publications and developing a certification test that must be taken to obtain a certification certificate. Intertribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) are providing training to the tribes in support of the required certification. **Larry Thomas, 214-665-8344**

Program Implementation:

Tribal Underground Storage Tanks (UST) Inspections: During FY2017, Region 6 will inspect 40 UST facilities operated on Tribal lands. Individual notifications for these inspections are sent to the owner/operator and the Tribal environmental offices 30 days before the inspection. The operators of these facilities are provided compliance assistance during the inspections. Compliance at Region 6 tribal facilities remains high, at over 88% for the last three years. **Larry Thomas 214-665-8344, Heather Mann 817-291-9106.**

Grants:

Pesticide Program Grants: Cooperative agreements were awarded to two tribal consortia, the Intertribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC), to assist tribes in building capacity for pesticide programs. The goal of the tribal

pesticides program is to make tribes aware of the benefits and risks of pesticides and the requirements for their safe use, thereby safeguarding human health and the environment. Projects are ongoing and are meeting negotiated work plan criteria. Mid-Year reviews have been conducted. **Lee McMillan, 214-665-6404**

Lead Paint Program Grants: The Cherokee Nation of Oklahoma was awarded a grant for 2018 to conduct a Lead Based Paint Program. The focus of the program is maintaining the appropriate infrastructure to successfully administer and enforce the lead based paint program; provide training for lead inspectors; conduct inspections of licensed contractors engaged in lead-based activities and taking appropriate enforcement when needed. The program is ongoing and grantee is meeting all program criteria and work plan goals. The Cherokee Nation is one of only two tribes in the US that applied to EPA for treatment as a state and passed legislation to run their own lead-based paint program. **Mike Adams, 214-665-6711**

UST Grants: The Intertribal Environmental Council (ITEC) and the Eight Northern Indian Pueblos Council (ENIPC) grants are ongoing and are providing compliance assistance to tribal UST owners and operators. The work of these two organizations has been instrumental in maintaining a high compliance rate at Region 6 Tribal facilities. **Audray Lincoln, 214 665-2239**

Hazardous Waste Branch

Grants:

On March 29, the competitive announcement for the FY2017 Hazardous Waste Management Grant Program for Tribes was posted on Grants.gov. The Hazardous Waste Management Grant Program provides financial assistance to tribal governments and tribal consortia for the development and implementation of hazardous waste programs. Supported activities include building capacity to improve and maintain regulatory compliance and developing solutions to address improper management of hazardous waste on tribal lands. The closing date for the competitive announcement was May 18. Eleven applications were received including one in Region 6 from the Pawnee Nation in Oklahoma. The review panel met on June 13 to review the applications. The announcement of awardees is expected later in the summer.

Maurice Hill, 214-665-8523.

New and Upcoming Regulations:

Hazardous Waste Generator Improvements Final Rule: The final rule was published on November 28, 2016, and became effective on May 30. This rule makes various changes to the hazardous waste generator regulatory program to improve its clarity and effectiveness. One improvement consolidates all of the hazardous waste generator regulations, where appropriate, in Part 262 of Title 40 of the Code of Federal Regulations. Another improvement requires small and large quantity generators to include additional information on container labels to better communicate risks associated with its contents. In order to provide generators with greater flexibility in complying with the Resource Conservation and Recovery Act regulations, another improvement allows generators to maintain their regulatory status even though, because of an

episodic event, they moved into a higher regulatory status temporarily. This improvement allows episodic generators to follow streamlined requirements that are fully protective of human health and the environment. *Kishor Fruitwala, 214-665-6669.*

Tribal Consultation and Coordination:

Fort Wingate Depot Activity, New Mexico: Fort Wingate Depot Activity (FWDA) closed under Base Realignment and Closure (BRAC) in 1993. Closure and post-closure is managed under a New Mexico Environment Department 2005 state Resource Conservation and Recovery Act (RCRA) permit for closure and post-closure. Base size at closing was 21,131 acres. Most of the facility is scheduled to be returned to the Navajo Nation and the Pueblo of Zuni. There are 11 parcels that currently qualify for transfer, totaling about 3,400 acres; transfers are anticipated to occur later this summer, with the goal of having all major cleanups completed in 2020. Tribal and BIA participation continues in the base closure process. Staff from Rep. Lujan and Senators Udall and Heinrich attended the June 7 meeting in Gallup. *Laurie King, 214-665-6771.*

Facility Specific Information:

Los Alamos National Laboratory Hexavalent Chromium Groundwater Plume, New Mexico: Potassium dichromate was used in the cooling towers at some of the Los Alamos National Laboratory (LANL) power plants. It is estimated that up to 72,000 kg of hexavalent chromium cooling water was discharged into Sandia Canyon from 1956-1972. The discharged water traveled downstream approximately 2 miles to an infiltration point in Sandia Canyon, where hexavalent chromium has contaminated the regional aquifer, which is approximately 1,000 feet below ground. In August 2015, LANL installed a groundwater monitoring well on San Ildefonso property to determine if the hexavalent chromium groundwater plume had migrated onto Pueblo property. Results from February samples detected hexavalent chromium at 4.89 parts per billion (ppb). The New Mexico Environment Department (NMED) standard is 50 ppb. The average background concentration of hexavalent chromium in the regional drinking-water aquifer is 4.16 ppb, with an upper tolerance limit at 7.48 ppb. The plume control consists of three extraction wells and six injection wells. LANL has completed all three extraction wells and five of the six injection wells. The sixth injection well is currently being constructed and should be on-line later this summer. *Laurie King, 214-665-6771.*

Compliance Assurance and Enforcement Division

We thank those Tribes and Pueblo Nations for their continued efforts to work with EPA to comply with existing orders on consent to bring PWSS into compliance with National Drinking Water Standards. We also will introduce our inspection staff which are operating out of the Albuquerque Field Office so Tribal and Pueblo Nation representatives have the opportunity to meet our water enforcement compliance inspectors. As a final note we are continuing to look at identifying Class V injection wells on Tribal or Pueblo lands. To date we have identified 4 or 5 facilities on several Tribal or Pueblo lands and we will continue to seek additional information from Tribal and Pueblo Nation governments to determine whether there are additional Class V injection wells.

Jerry Saunders, 214-665-6470

Superfund Division

TRIBAL CONSULTATION AND COORDINATION

VARIOUS REMOVAL/REMEDIAL ISSUES

Jackpile-Paguate Uranium Mine Site: EPA and Atlantic Richfield have reached a settlement on the Remedial Investigation/Feasibility Study (RI/FS) for Superfund activities at the Jackpile Uranium Mine Site. An Administrative Order on Consent (AOC) was signed by BP Inc., parent company to Atlantic Richfield, on June 12, 2017. EPA, the Pueblo of Laguna and BP technical staff will soon be discussing next steps and planning activities. John Meyer, 214-665-6742

Quapaw Tribe: The EPA continues to work closely with the Quapaw Tribe and the Oklahoma Department of Environmental Quality (ODEQ) in implementing the Tar Creek Superfund site remedy. Since the awarding of a Remedial Action Cooperative Agreement (CA) in FY2012 for the Catholic 40, the first-ever CA in the nation where a Tribe performed a Superfund remedial action on property that they own, the EPA has continued to award the Quapaw Tribe CAs for remedial actions at Beaver Creek North (CP060), Distal 7 North (Drainage Feature), Distal 10/12, and Distal 13. CAs with the Tribe for the Bird Dog chat base, and other areas of the Site, are currently being discussed.

On April 18, 2017, the EPA's RPM provided a presentation at the Institute for Tribal Environmental Professions – Tribal Superfund Working Group Training in Quapaw, Oklahoma. The RPM discussed the EPA's experience working with the Quapaw Tribe on implementing the Site's remedial actions under cooperative agreements.

A Bench-Scale Study on the use of soil amendments, led by the EPA's Environmental Response Team, was recently completed at the Catholic 40 (Quapaw tribal trust land). The purpose of the study is to determine if soil amendments can reduce the bioavailability of cadmium, lead, and zinc. The successful use of soil amendments could reduce the amount of transition zone soils (i.e., native soils underneath chat piles/bases) which would otherwise be excavated and taken to a repository for final disposal. The Quapaw Tribe, with technical assistance from the EPA and the ODEQ, will be implementing long-term performance measures at the Catholic 40 and other distal areas to determine the effectiveness of the soil amendments in meeting the remedial action objectives specified in the 2008 Record of Decision for Operable Unit 4 (Source Material). The EPA, Quapaw Tribe, and the ODEQ are discussing additional options for reducing the amount of soils that are excavated from the Site and disposed at the central repository. *John Meyer, 214-665-6742*

AWARD FUNDING

Quapaw Tribe: EPA has awarded two separate Cooperative Agreements regarding the remediation of distal areas in the Tar Creek Superfund Site:

- Tar Creek Distal 13 - \$ 286,569
- Tar Creek Distal 10 & 12 - \$4,896,088

Tony Talton 214-665-7205

Tar Creek: On April 10, 2017, a stakeholder meeting was held to discuss site activities. EPA presented information on the draft field sampling plan. The next stakeholder update meeting is scheduled for July 2017 and will focus on field sampling for those participating in the collection events. The EPA will continue to coordinate with the tribes interested in the Tar Creek Site through periodic meetings and conference calls. *John Meyer, 214-665-6742*

Wilcox Oil Company: An Open House community meeting was held on April 13, 2017. Prior to the Open House, the EPA Region 6 and the Oklahoma Department of Environmental Quality (ODEQ) met with the tribes to discuss questions, comments, progress, and schedule. The EPA and ODEQ continue to coordinate with the tribal groups interested in the Wilcox Site. The Inter-Tribal Environmental Council (ITEC), Sac and Fox Nation, Muscogee (Creek) Nation, Cherokee Nation, Bureau of Indian Affairs, and Indian Health Service participate in the site meetings and visits. Since finalizing the site Sample and Analysis Plan, EPA completed four field events, the most recent being in April 2017. *John Meyer, 214-665-6742*

Oklahoma Refining Company Superfund Site, Cyril, Oklahoma – Coordination/Meeting with the City of Cyril and Inter-Tribal Environmental Council: On April 18, 2017, EPA Region 6, along with the Oklahoma Department of Environmental Quality (ODEQ) met with the Mayor of Cyril and the Inter-Tribal Environmental Council (ITEC) concerning the status of the remedial activities being performed at the Oklahoma Refining Company Superfund Site located in Cyril, Oklahoma. EPA and ODEQ met with ITEC in the morning and with the Mayor of Cyril in the afternoon hours. Recent improvements to on-site drainage were discussed with the Mayor in addition to various site maintenance issues. Recent sampling activities conducted in Gladys Creek were discussed with ITEC. *John Meyer, 214-665-6742*

New Mexico Abandoned Uranium Mines: Investigations into the impacts on groundwater from legacy uranium mining and milling are continuing. The Phase 1 Ground Water Investigation was released to stakeholders and the public in September 2016. The Phase 2 Ground Water Investigation will be released in late summer 2017.

The Ambrosia Lake West Geographic Subarea non-time critical removal assessment was completed in January 2017. The Central Geographic Subarea non-time critical removal assessment began in February 2017. The data is being utilized to prepare Engineering Evaluation/Cost Analysis Reports for these areas.

The Johnny M Mine Engineering Evaluation/Cost Analysis will be released to the public for a 30-day public comment period by July 2017. The report identifies alternatives that were evaluated to address mine waste at the Site and identifies a preferred alternative.

Coordination meetings are held on a regular basis with Region 6, Region 9, Navajo Nation, NMED, and NMEMNRD to discuss priorities for current and future removal work in the legacy uranium mines under the Tronox settlement. The most recent meetings were held on June 6-8, 2017. *Ben Banipal, 214-665-7324, John Meyer, 214-665-6742, Craig Carroll, 214-665-2220*

Grants Mining District – Five-Year Plan: On April 26, 2017, EPA Region 6 met with our Grants Mining District Five Year Plan partners, including representatives of the Pueblo of

Acoma and the Pueblo of Laguna as well as several federal and state agency representatives. All of the partner representatives provided updates on their progress. *Ben Banipal, 214-665-7324*

BROWNFIELDS

128A Tribal Response Program Updates:

- The Tribal Lands and Environmental Forum will be held in Tulsa, OK, August 14-17, 2017.
- Brownfields is working with 128A Tribes to finalize 128A funding for FY17. We expect to have all funds released to our 128A partners by the end of August.
- The Kickapoo Tribe of Oklahoma received a \$200,000 clean up grant from the recent Brownfields National Competition for assessment and clean-up grants.

TARGETED BROWNFIELDS ASSESSMENT ACTIVITIES

Santa Clara Pueblo: On June 1, 2017, The EPA's Brownfields Program received the Targeted Brownfields Assessment forms/request for the Bridge Radiator Shop. The EPA will undertake a Phase I ESA on the Bridge Radiator Shop on behalf of Santa Clara Pueblo. *Tony Talton, 214-665-7205*

Cochiti Pueblo: In FY 2017, EPA is assisting the Pueblo of Cochiti with contract support/assistance to identify sustainable reuse options for an abandoned gravel mine through the Land Revitalization contract and to develop a cleanup plan through the Brownfields Interagency Agreement with US Army Corps of Engineers. The first site tour and community meetings with the Cochiti Pueblo Governor, Tribal Administrator, and Elders were completed by the Land Revitalization Coordinator and EPA staff on March 13-14, 2017. On June 29-30, 2017, a second set of onsite meetings with the Cochiti Pueblo will enable the Land Revitalization contractor, EPA staff, and the US Army Corps of Engineers to present the top three sustainable reuse options identified through the technical assistance process and to request feedback and comments directly from the Cochiti Pueblo Governor, Council, and Tribal Administrator. *Tony Talton, 214-665-7205*

Taos Pueblo: On June 5, 2017, the New Mexico Environment Department's Brownfields Program, on behalf of the Taos Pueblo, will begin the cleanup of the Taos Pueblo former medical office and residence brownfields site. Cleanup will be completed by June 30, 2017. *Tony Talton, 214-665-7205*

Acoma Pueblo: The Acoma Pueblo is interested in receiving a Phase II environmental site assessment that includes an asbestos and lead-based paint survey on a closed building (the building construction was funded by the US Department of Commerce, Economic Development Administration) generally referred to as the "EDA Building". Also, the Acoma Pueblo is working with EPA Region 6 and the Office of Sustainable Communities to host a Tribal Main Street technical assistance workshop, which is tentatively scheduled for September 2017. *Tony Talton, 214-665-7205*

Management Division

INFORMATION SHARING

QUALITY ASSURANCE TRAINING

Region 6 will provide Quality Assurance Training in New Mexico in August 2017. Detailed training announcement will be provided to all tribes before the RTOC meeting in July. The Quality Assurance staff is very appreciative of the coordinating assistance of the Eight Northern Pueblo Indian Council in obtaining a suitable location. ***Don Johnson, 214-665-8343***

DATA USABILITY ISSUES

San Felipe Pueblo raised concerns at last Caucus about the process by which data packages should be reviewed to determine the usability of the data. The Regional QA Staff has contacted San Felipe and based on those exchanges is forming a small group of technical staff from applicable media areas with this type of background to work with the tribes to try to develop a solution for this capacity building task. It is anticipated that a simple questionnaire will be developed and sent to all tribes to guide this group in developing a training class for presentation at next Summit. ***Don Johnson, 214-665-8343***

Office of Environmental Justice, Tribal and International Affairs

TRIBAL FUNDING

Region 6 General Assistance Program (GAP): OEJTIA has been allocated \$7,330,000 in FY 17 Indian Environmental General Assistance Program (GAP) funding. This year OEJTIA will award GAP grants to sixty tribal partners, including six Performance Partnership Grants (PPGs). Award notices have begun to be sent out; please contact your GAP project officer if you have questions. *Randy Gee, 214-665-8355.*

EPA-TRIBAL ENVIRONMENTAL PLANS

OEJTIA finalized seventeen EPA-Tribal Environmental Plans (ETEPs) by September 30, 2016. OEJTIA is working with tribal partners to finalize thirteen ETEPs by the end of FY 2017 and twelve ETEPs by the end of FY 2018. Regions are required to work with tribal partners receiving Indian Environmental General Assistance Program (GAP) grants to establish ETEPs as outlined in the May 15, 2013 GAP guidance. The ETEPs will contain tribal environmental priorities, how the Region can assist tribal partners in achieving their priorities, and EPA's direct implementation role in Indian Country. *Randy Gee, 214-665-8355.*

TRIBAL CONSULTATION AND COORDINATION

EPA Policy on Consultation and Coordination with Indian Tribes: Opportunities for Consultation: There are no current tribal consultation opportunities posted for Region 6 tribal partners. National tribal consultation opportunities may be viewed at www.epa.gov/tribal. *Randy Gee, 214-665-8355*

TAS LEAN PROJECT UPDATE

OEJTIA is partnering with the Region's Water and Multimedia Divisions, Office of Regional Counsel, Citizen Potawatomi Nation, The Quapaw Tribe of Oklahoma, and Kickapoo Tribe of Oklahoma on a TAS Lean project to shorten the approval time of TAS applications. A tribal training session on the TAS process will be provided on July 13 as part of the project. *Randy Gee, 214-665-8355 and Alexa Olson, 214-665-8506*